

Filed for intro on 01/13/2000
HOUSE BILL 2011 By
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SENATE BILL 2059
By Haun

AN ACT to amend Tennessee Code Annotated, Section 36-6-306
and Section 36-6-307, relative to visitation rights.

WHEREAS, it is sound public policy to provide children with the stability and continuity of
meaningful relationships in their lives; and

WHEREAS, if a grandparent has had a significant existing relationship with a child, a
loss of that relationship could be a severe emotional and psychological blow to the child; and

WHEREAS, the Tennessee Supreme Court has concluded that ordering grandparent
visitation without first finding a danger of substantial harm to the child is unconstitutional
because it violates the constitutional rights of the child's parents; now, therefore;

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 36-6-306(a), is amended by deleting
that subsection in its entirety and by substituting instead the following:

(a) In considering a petition for grandparent visitation, a court of competent
jurisdiction shall first determine the presence of a danger of substantial harm to the child.
Such finding of substantial harm may be based upon cessation of the relationship

between an unmarried minor child and his or her grandparent if the court determines, upon proper proof, that:

(1) the child had such a significant existing relationship with the grandparent that loss of the relationship is likely to occasion severe emotional harm to the child;

(2) the grandparent functioned as primary caregiver such that cessation of the relationship could interrupt provision of the daily needs of the child and thus occasion physical or emotional harm; or

(3) the danger of other direct and substantial harm to the child is presented.

(b) Upon an initial finding of danger of substantial harm to the child, the court shall then determine whether grandparent visitation would be in the best interests of the child based upon the factors in § 36-6-307. Upon such determination, reasonable visitation may be ordered.

SECTION 2. Tennessee Code Annotated, Section 36-6-307, is amended by deleting the section in its entirety and by substituting instead the following:

In determining the best interests of the child under § 36-6-306, the court shall consider all pertinent matters, including, but not necessarily limited to, the following:

(1) The length and quality of the prior relationship between the child and the grandparent and the role performed by the grandparent;

(2) The existing emotional ties of the child to the grandparent;

(3) The preference of the child if the child is determined to be of sufficient maturity to express a preference;

(4) The effect of hostility between the grandparent and the parent of the child manifested before the child, and the willingness of the grandparent, except

in case of abuse, to encourage a close relationship between the child and the parent(s) or guardian(s) of the child;

(5) The good faith of the grandparent in filing the petition;

(6) If the parents are divorced or separated, the time-sharing arrangement that exists between the parents with respect to the child; and

(7) If one (1) parent is deceased or missing, the fact that the grandparents requesting visitation are the parents of the deceased or missing person.

SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.